IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 784 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MORARAJIBHAI L. TANNA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 784 of 1992

Ms. Krina C. Thakkar for MR YOGESH S LAKHANI for petitioner No. 1

Mr. Sudhir Mehta, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 21/02/2002

ORAL JUDGEMENT

1. The petitioner, in this petition, has claimed a mandatory direction to the respondents to give stepping

up in his salary with effect from 1-6-1967 and further directions to remove the anomaly in the salary of the petitioner and to give all consequential benefits including the increased rate of pension to the petitioner.

2. The petitioner has further claimed interest at the rate of 18% per annum on the arrears after clearing the anomaly in salary with effect from 1-6-1967.

3. The petition was admitted by this Court on 29-9-1992 and the respondents were directed to file their affidavit by 8-10-1992. It is very unfortunate to state that till this date no affidavit-in-reply has been filed by the respondents and even at the time of hearing of this petition, the learned Assistant Government Pleader is not having any instructions with regard to the issues raised in the petition. This Court is, therefore, constrained to dispose of this petition on the basis of the facts stated and averments made in the petition as well as the documents attached alongwith the petition.

4. It is stated in the petition that the petitioner retired from service on 1-10-1990 (However the correct date of retirement is 1-10-1980 as stated by the learned Advocate appearing for the petitioner.) The petitioner has last served as an Auditor (Grade-I) for Education Department. The petitioner has challenged in this petition, the non implementation of the order passed by the Director of Education on 23rd July, 1981 which is annexed as Annexure "A" to the petition. It was submitted by the petitioner, in the petition, that during his services one Mr. B.S. Limbachiya who was junior to the petitioner was getting more scale than what the petitioner was getting and this anomaly was going on from 1-6-1967. A gradation list was issued by the respondents on 15th March, 1967 wherein the petitioner was shown at serial no.49 whereas said Mr. Limbachiya was shown at serial no.81. It is further submitted by the petitioner that the State Government has issued a Government Resolution on the subject of stepping up and pursuant to the said G.R., the petitioner was granted stepping up on 1-6-1967 vide order dated 23rd July, 1981. As per the said order, the scale of the petitioner was ordered to be refixed, and it was further ordered that the petitioner should get the revised scale and the arrears with effect from 1-4-1970.

The petitioner has further stated in the petition that the District Education Officer, Junagadh wrote a letter to the respondent no.1 on 21st January, 1991

stating that as per the revised salary after granting stepping up with effect from 1-4-1970, the amount is not given to the petitioner and immediate decision is required to be taken in this regard.

It is further stated in the petition that the petitioner has received a letter dated 22nd August, 1988 written by the Section Officer, Finance Department, Government of Gujarat, informing the petitioner that the report from the respondent no.1 was called for. It is further stated in the petition that thereafter several representations were made by the petitioner and various personal visits were also made by the petitioner, but no action has been taken by the respondents-authorities and in view of the said gross delay and inaction on the part of the respondents-authorities, the petitioner was compelled to file the present petition before this Honourable Court.

I have gone through the facts stated and averments made in the petition. I have also perused the documents filed alongwith the petition. I have heard the learned Advocate appearing for the petitioner. The learned Assistant Government Pleader has placed before me certain internal correspondence exchanged between the respondents-authorities from which it appears that the matter was delayed only because the Office of the Director of Higher Education, Gandhinagar, has not taken any decision in this matter, and hence, the petitioner is not paid his dues for which he was entitled to as a result of the order passed by the Director of Education, Gujarat State, Ahmedabad on 23-7-1981. There would not be any other case of gross delay than the present case. The petitioner retired in 1980 and he has filed the present petition in 1992 and this Court has directed to file affidavit-in-reply till 10th September, 1992 and even at the time when the present petition was listed for final hearing, no action has been taken by the respondents-authorities. The State Government is not supposed to sleep over the issues pertaining to retirement benefits of its own employees. Even a person like the petitioner is at the fag end of his life and yet he is not in a position to enjoy the fruits of his own work and labour which he had put in for the organisation. There won't be a pitiable situation than the present one and the Court could not be a mere spectator in such matters. I am, therefore, inclined to grant the relief prayed for in this petition. I accordingly direct the respondents-authorities to give stepping up in the salary of the petitioner as per the order dated 23-7-1981 with all consequential benefits. I further direct the

respondents-authorities to give the said dues determined on the basis of the order dated 23-7-1981 alongwith interest at the rate of 12% per annum from the date on which the petitioner is entitled to under the order dated 23-7-1991 till the date of actual payment to the petitioner. The respondents-authorities are directed to pay this amount to the petitioner within one month from the date of receipt of the writ of this Court. However, if there is any difficulty, the respondents-authorities are at liberty to approach this Court for extension of time or for any clarification with regard to the direction given by this Court.

With the aforesaid observations, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(K.A.Puj,J.)

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